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HAROLD B. WILLEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1954.

No. 441

PEOPLE OF THE STATE OF ILLINOIS, EX REL. LAR DALY, ERICK E. BERGQUIST, AND JAY SEALS,

Petitioners,

vs.

WILLIAM G. STRATTON GOVERNOR OF ILLINOIS, ORVILLE E. HODGE, AUDITOR OF PUBLIC ACCOUNTS OF THE STATE OF ILLINOIS, CHARLES F. CARPENTIER, SECRETARY OF STATE OF ILLINOIS, LATHAM CASTLE, ATTORNEY GENERAL OF THE STATE OF ILLINOIS, AND ELMER J. HOFFMAN, TREASURER OF THE STATE OF ILLINOIS, CONSTITUTING THE STATE ELECTORAL BOARD OF THE STATE OF ILLINOIS,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

LAR DALY, ERICK E. BERGQUIST, and JAY SEALS,

Petitioners,

LAR DALY,

Pro Se.

Chicago, Illinois,

October 19, 1954.

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Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

To the Honorable Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Petitioners, Lar Daly, Erick E. Bergquist, and Jay Seals, pray that a Writ of Certiorari issue to the Supreme Court of Illinois, which court denied leave to file an original petition for writ of mandamus on September 27, 1954.

JURISDICTION

Jurisdiction of this Court in invoked under Section 1257 U. S. C. A., Title 28.

QUESTION PRESENTED.

Did the State Electoral Board of the State of Illinois fail to exercise their statutory duty, and thereby arbitrarily deny petitioners the right to be on the ballot?

CONSTITUTIONAL PROVISION INVOLVED.

The United States Constitution, Amendment XIV, Section 1, provides:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATEMENT OF THE CASE.

Petitioners are candidates on the slate of candidates placed in nomination in the State of Illinois by the America First Party. This party, a minority party within the provisions of Title 10 of the Illinois Election Code, Chapter 46 of the Illinois Revised Statutes, circulated petitions to have their slate of candidates placed on the State ballot in the General Election on November 2, 1954. The nominating petitions were circulated pursuant to the provisions of Title 10 of the Illinois Election Code. The petitions were, therefore, to have the effect of naming the

America First Party as a new political party in Illinois, for the next General Election, which would entitle that party to place its slate of candidates on the ballot.

With these nominating petitions in order, Lar Daly and Erick E. Bergquist appeared in Springfield at the State Capitol Building before 5 P. M. on August 16th, the deadline for filing petitions. It was their purpose to transmit the nominating petitions to the proper authorities. It was the duty of Donald Butler, Chief Index Clerk in the Secretary of State's Office, to receive these petitions. Notwithstanding the fact that Chapter 127, Section 18 of the Illinois Revised Statutes provides that the office hours of the State of Illinois are from 8:30 A. M. to 5 P. M., and notwithstanding the fact that Mr. Butler, himself, had notified Mr. Daly of these hours, and notwihtstanding the fact that the petitions were tendered before 5 P. M. on August 16, Mr. Butler refused to accept the petitions. He stated that they were presented too late.

REASON FOR ALLOWANCE OF CERTIORARI

The refusal of the nominating petitions in the instant case represents an arbitrary action on the part of the State Election officials; an arbitrary action by which the unquestioned right of citizens, who have complied with the provisions for placing their name on the ballot has been denied. Such an action amounts to a denial of an accrued right, without due process of the law, and further amounts to a denial of equal protection of the laws. The Illinois Supreme Court did not remedy this denial by granting leave to file a petition for writ of mandamus. Therefore, this Court is the only tribunal which is in a position to remedy the denial of Federal Constitutional rights.

ARGUMENT.

There is no sense in laboring this rather simple issue. The fact situation clearly indicates that an arbitrary action on the part of a State Election Official has denied citizens, who have duly complied with the statutory requirements which are necessary to secure the right to be on the ballot, of a substantive right which is available to those who qualify. One of the offices sought by the America First Party is that of United States Senator from Illinois. Surely the appearance of a candidate's name on the ballot for that office cannot rest on the whim and caprice of a State official, but must be moderated solely by rule of law.

The facts in this case, which support the conclusion of arbitrary action, indicate:

1. That the arbitrary action, in itself, was a denial of due process.

2. That petitioners have not been afforded equal protection of the laws.

For these rather basic reasons this Court should review this matter.

CONCLUSION.

WHEREFORE: Petitioners pray that the Writ of Certiorari may issue out and under the seal of this Court directed to the Supreme Court of Illinois, sitting at Springfield, Illinois, commanding that Court to certify, on a day certain to be herein named, a full and complete transcript of the record and all proceedings had in this case numbered and entitled on its docket 33435, to the end that this case may be reviewed and determined by this Court; that the said judgment of the Supreme Court of Illinois may be reversed by this Court, and that your petitioners may have

such further and other relief in the premises as may seem just and proper.

Respectfully submitted,

LAR DALY, ERICK E. BERGQUIST, and JAY SEALS,

Petitioners,

LAR DALY,

Pro Se.

Chicago, Illinois,

October 19, 1954.